UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

DEC 07 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN THE MATTER OF: Rudy's Performance Parts, Inc.

ATTENTION:

Mr. Aaron Rudolf
Rudy's Performance Parts, Inc.
7422 Whitsett Park Road
Burlington, NC 27215

Mr. Aaron Rudolf
Rudy's Performance Parts, Inc.
1021 Dunleigh Drive
Burlington, NC 27215

Carolina Performance Parts, Inc.
209 Old Franklin Grove Drive
Chapel Hill, NC 27514

Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)

The United States Environmental Protection Agency ("EPA" or "We") hereby requires Rudy's Performance Parts, Inc. ("Rudy's" or "you"),[1] to submit certain information as part of an EPA investigation to determine your compliance with Sections 203(a) and 213(d) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85 and 86. Examples of vehicles or engines regulated under these Parts include, but are not limited to cars and pickup trucks. Appendix A provides definitions. Appendix B provides instructions for your responses to this Request for Information. Appendix C specifies the information that you must submit.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202-219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or

[1] *See* definition 5 in Appendix A.

has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Director of the Air Enforcement Division, Office of Enforcement and Compliance Assurance.

You must submit this information to the EPA representative listed below within thirty (30) calendar days from the date of this Request for Information. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to this Request for Information by this date, you must contact Lauren Tozzi, Attorney-Adviser, by telephone at (202) 564-4904 or by email at Tozzi.Lauren@epa.gov, within seven (7) days of the date of this Request for Information and, with an appropriate justification, request an extension of time to answer some or all of the requests below. If timely submitted, the EPA will review your request and may extend the time in which your response must be provided.

Failure to provide the requested information in its entirety, and in the format requested, may result in additional inquiries and may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). It is important that your responses be clear, accurate, organized, and complete. We will regard any submitted information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes.

Finally, you must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

> I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

We may use any information submitted in response to this Request for Information in an administrative, civil, or criminal action.

You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information ("CBI") regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. Appendix D of this Request for Information specifies the assertion and substantiation requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please submit all requested information, via courier service or overnight delivery, to:

Lauren Tozzi, Esq.
Air Enforcement Division, Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
WJC Federal Building, South
Room 1111-C, Mail Code 2242A
Washington, DC 20460

Any questions concerning this Request for Information should be directed to Ms. Lauren Tozzi at (202) 564-4904 or Tozzi.Lauren@epa.gov.

Evan Belser
for Phillip A. Brooks
Director
Air Enforcement Division
Office of Civil Enforcement

Appendix A
Definitions

1. All terms used in this Request for Information will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 *et seq.*, or the Motor Vehicle and Non-Road Regulations found at 40 C.F.R. Parts 85, 86, 89, 90, 1051, and 1068.

2. The terms "document" and "documents" mean any object that records, stores, or presents information, and includes, without limitation, email, writings, memoranda, contracts, agreements, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy shall also include attachments to or enclosures with any document.

3. The term "entity" means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization, or association.

4. The term "person" includes an individual, corporation, partnership, or association. S*ee* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

5. The terms "Rudy's," "you," and "your" include, but are not limited to, Rudy's Performance Parts, Inc., Rudy's Performance Diesel, Carolina Performance Parts, Inc. and any parent organization, affiliate, predecessor, successor, and assignee organization.

6. The term "Affiliate" means any organization or entity associated with you as an agent, parent organization, predecessor corporation, subsidiary organization, or any organization or entity acting in lieu of you or the entities named in Definition 5.

7. The term "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway. S*ee* Section 216 of the CAA, 42 U.S.C. § 7550(2).

8. The term "applications" means all vehicle or engine configurations.

9. The term "emission related parts" means those parts installed for the specific purpose of controlling emission or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance as defined in 40 C.F.R. § 85.2102.

10. The term "element of design" means any control system (*e.g.*, computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. § 86.094-2.

11. The term "part or component" includes any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine (*e.g.*, electronic control module ("ECM"), element of design, tuner, tune, calibration map, computer program or software that is installed on or designed for use in such vehicles or engines).

12. The term "electronic control module" or "ECM" means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Other ECMs may be incorporated separately with multiple units used to control various engine, vehicle, or equipment functions. Examples of electronic control modules include, but are not limited to, Engine Control Module, OBD Control Modules, Powertrain Control Module ("PCM"), Transmission Control Module ("TCM"), Body Control Module ("BCM"), and after-treatment control module. Any or all of these modules may be combined into a single unit.

13. The term "engine tuner" or "tuner" means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), coding, or other content or information stored within or used by an electronic control module.

14. The term "selective catalytic reduction" or "SCR" includes systems that inject a reductant, such as diesel exhaust fluid ("DEF"), into the exhaust stream where it reacts with a catalyst to convert nitrogen oxides ("NO_x") emissions to nitrogen gas ("N_2") and water ("H_2O").

15. The term "onboard diagnostics" or "OBD" includes systems that monitor components that can affect the emission performance of the vehicle to ensure that the vehicle remains as clean as possible over its entire life, and assists repair technicians in diagnosing and fixing problems with the computerized engine controls. If a problem is detected, the OBD system illuminates a warning lamp on the vehicle instrument panel to alert the driver.

16. The term "exhaust gas recirculation" or "EGR" includes systems that direct, usually by use of a valve, a portion of engine exhaust back into the engine's combustion chamber in order to control combustion temperatures and pressures, thereby reducing the production of NO_x. The EGR system may include a cooler that cools the recirculated exhaust.

17. The term "Diesel Particulate Filter" or "DPF" refers to an exhaust after-treatment device that physically traps particulate matter ("PM") and removes it from the exhaust stream of diesel fueled vehicles and equipment, typically using a porous ceramic or cordierite substrate or metallic filter.

18. The term "catalysts" includes systems that contain parts or chemical elements that increase the rate of a chemical reaction but are not one of the original reactants or final products, i.e., are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless steel housing.

Appendix B
Instructions for Responses

1. Provide a complete, detailed response to each of the requests in Appendix C, below. Provide any narrative responses or lists in English, in both written document form and in electronic form (*e.g.*, Word, Excel), provided you have access to spreadsheet software. Please contact Ms. Lauren Tozzi at (202) 564-4904 or Tozzi.Lauren@epa.gov, if providing the responses in Excel format will be an issue.

2. This Request for Information is a continuing request. You must promptly supplement your response to any request in Appendix C in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after initially responding to this Request for Information.

3. For each answer, please provide the number of the request to which it responds and identify each person who provided information that was used to prepare that answer. For each document produced, please provide the number of the request to which it responds. Where information is responsive to more than one numbered request, provide that information only once, but indicate on the responsive material the numbers of all requests to which the information is responsive.

4. When a response includes a quantity with units of measure, specify the units of measure.

5. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information is not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.

6. All submitted documents should be copies and not original documents.

7. Where you have previously submitted information to the EPA that is also the subject of these requests, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (*e.g.*, electronically, fax, mail), and the individual at EPA to whom it was provided.

8. Please provide your response to this Request for Information in electronic form. Please provide the Statement(s) of Certification (Appendix E) in hard copy form with your response. All responsive documents and materials (*e.g.*, copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, submitted on a disk (CD or DVD media) or flash drive, and number stamped in sequential order (*e.g.*, BATES stamped) to permit identification using unique references.

Where spreadsheets are responsive to a request, produce them in unlocked electronic spreadsheet format, such as .xls or .csv (locked spreadsheets, .pdf files, and images are unacceptable). Please contact Ms. Tozzi if providing the information electronically will be an issue.

9. Where a person at an entity other than you is responsible for a response to a request in Appendix C, clearly indicate in your response which entity is providing the response, as well as the person.

Appendix C
Request for Information

Rudy's Performance Parts, Inc., and any of its affiliates ("Rudy's" or "you") shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either offered for sale or sold since January 1, 2014.

1. With respect to your accounting database covering purchase and sales of parts or components, provide a copy of your purchase and sales records covering all parts or components you sold between January 1, 2014 and the present. This can be a data export from an electronic database, electronic copies of hard records, or both.

2. For each part or component offered for sale or sold by you between January 1, 2014 and the present, identify the part or component as:

    a. an engine tuner;
    b. an engine tune;
    c. replaces, modifies, bypasses, allows for deletion or partial deletion, or affects a vehicle's:
        i. electronic control module or other part of an engine's control system;
        ii. diesel particulate filter ("DPF") system;
        iii. exhaust gas recirculation ("EGR") system;
        iv. catalytic converter system ("catalyst");
        v. on-board diagnostic system ("OBD");
        vi. selective catalytic reduction system ("SCR");
        vii. any other emissions related parts; or

3. For each part or component offered for sale or sold by you between January 1, 2014 and the present, provide a description of the part or component if not included in response to Request 2.a.-c. above.

4. For each part or component identified in Requests 2.a.-2.c., provide a list of all websites, magazines, trade publications, and any other media in which you advertised the part or component at any time since January 1, 2014, and provide copies of such advertisements.

5. For each part or component identified in Requests 2.a.-2.c., submit copies of any applicable installation or operation guides or manuals.

6. Provide a description of all of the methods Rudy's utilizes or has utilized since January 1, 2014, to tune ECMs and identify all locations by address where Rudy's conducts tunes of ECMs.

7. Provide a description of any software application you utilize or have utilized since January 1, 2014, to tune ECMs, and provide all user manuals associated with such software application(s).

8. Identify the names of all Rudy's employees or individuals assisting Rudy's in creating software tunes for ECMs since January 1, 2014.

9. For parts or components that are identified in response to Requests 1 through 2 above, state whether any emission testing was conducted to assess the effect such parts or components have on vehicle emissions and provide the following information:

    a. A description of the test, including identification of part or component and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;

    b. A sample test report and any training or instructional materials used for educating employees and affiliated persons about how to perform the test; and

    c. The date and location of the test, the name and position of the person who conducted the test, and the test results.

10. For parts or components that are identified in response to Requests 1 through 2 above, state whether you or any person submitted an application for an Executive Order to the California Air Resources Board and provide a copy of the application for each part or component. State whether each component received an Executive Order exempting the component from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the component received an Executive Order, provide the Executive Order number and state whether the California Air Resources Board required any change the component or application in order to receive approval.

11. Please state "yes" or "no," if Rudy's has ever manufactured and imported any vehicle and engine parts and components.

12. If the answer to Request 7 is yes, then please provide a list of all parts and components manufactured and imported by Rudy's.

13. Please state "yes" or "no," if, since January 1, 2014, Rudy's has installed a part or component on or modified any compression or spark ignition engine.

14. If the answer to Request 9 is yes, then please provide a full detailed account of the installations and modifications of those vehicles and engines, including, but not limited

to: a list of all invoices, parts and components installed, make and model of the vehicle/engine, ECM tuning conducted, tuners installed, and the names of the individuals who conducted the installation or modifications.

15. Identify each individual responsible for responding to this Request for Information, including his/her title(s), the request(s) to which each individual responded, and the period of time for which each individual is providing a response.

16. Provide a copy of Rudy's certificate of good standing, articles of incorporation, by-laws, and partnership or membership agreements, as applicable. Provide a list of Rudy's officers, directors, shareholders, members, managers, or partners, as applicable.

17. Provide a list of all companies, domain names, or any other public facing name which are owned by or affiliated with Rudy's.

Punch-It Performance

18. Please provide a narrative description of the relationship between Rudy's and Punch-It Performance, DNS Enterprises, and Michael Schimmack (collectively referred to as "Punch-It").

19. Please provide all correspondence, contracts, and agreements between Rudy's and Punch-It from January 1, 2014 until the present.

20. Please state "yes" or "no," if Punch-It has ever contacted Rudy's regarding a recall or buy-back program.

21. If the answer to question 20 is "yes," please provide all information pertaining to such recall or buy-back program, including when Rudy's was informed of the recall or buy-back program.

22. Please state "yes" or "no," if Rudy's has ever purchased, owned, or been in possession of products produced and/or sold by Punch-It.

23. If the answer to question 22 is "yes," please provide a copy of your purchase and sales records covering all such parts between January 1, 2014 and the present. This can be a data export from an electronic database, electronic copies of hard records, or both.

24. Please state "yes" or "no," if Rudy's currently owns or is in possession of products produced and/or sold by Punch-It.

25. If the answer to question 24 is "yes," please provide a list and quantity of Punch-It products currently owned or in possession by Rudy's.

26. Please state "yes" or "no," if, since January 1, 2014, Rudy's has shipped tuners to Punch-It to be programmed.

27. If the answer to question 26 is "yes," please provide a narrative description of this arrangement, including the specific work that Punch-It performed, the original source of any tuners that were sent to Punch-It, and any payments associated with this arrangement.

Appendix D
Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Request for Information for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, Subpart B. Under Section 208(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, Subpart B, business confidentiality means "the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information." See 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, Subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this Request for Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential" at the time you submit your response to this Request for Information. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. See 40 C.F.R. §§ 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this Request for Information, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following requests with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.

2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event, or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.

3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?

7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests concurrent with your response to this Request for Information if you have claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality

claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Lauren Tozzi, Esq.
Air Enforcement Division, Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
WJC Federal Building, South
Room 1111-C, Mail Code 2242A
Washington, DC 20460

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.

Appendix E
Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Request for Information, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by _____ [corporate affiliation] to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Signature: _____

Name (Printed): _____

Title: _____

CERTIFICATE OF MAILING

I, Tawanna Cathey, certify that I sent a Request for Information pursuant to Section 208 of the Clean Air Act by Certified Mail, Return Receipt requested, to:

Rudy's Performance Parts, Inc.
Aaron Rudolf, President
7422 Whitsett Park Road
Burlington, NC 27215

Rudy's Performance Parts, Inc.
Agent for Service of Process
Aaron Rudolf, President
1021 Dunleigh Drive
Burlington, NC 27215

√ Carolina Performance Parts, Inc.
209 Old Franklin Grove Drive
Chapel Hill, NC 27514

On the 7th day of December, 2016.

Tawanna Cathey, Secretary
U.S. Environmental Protection Agency

Certified Mail Receipt Number: 7013 0600 0001 3422 2047